

June 15, 2004

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IN THE SUPREME COURT OF THE STATE OF IDAHO

2004 Opinion No. 72

HANS BOLL and PEGGY BOLL, husband	)	
and wife,	)	
	)	
Plaintiffs/Appellants/Cross-	)	
Respondents,	)	
	)	Docket No. 29295
v.	)	
	)	
STATE FARM MUTUAL AUTOMOBILE	)	
INSURANCE COMPANY,	)	
	)	
Defendant/Respondent/Cross-	)	
Appellant.	)	

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County.  
Hon. John M. Melanson, District Judge.

Robertson Hepworth Sleet Worst & Stover, PLLC, Twin Falls, for Appellants. Jeffrey J. Hepworth argued.

Elam & Burke, PA, Boise, for Respondent. Jeffrey A. Thomson argued.

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Hans and Peggy Boll, (the Bolls) the Appellants, settled a personal injury lawsuit and collected \$215, 675.00 from Michael Reese (Reese) and his insurer, Safeco Insurance, for an accident caused by Reese. State Farm insured the Bolls. State Farm paid the Bolls' initial hospital bills. After reaching a settlement agreement with Safeco, the Bolls requested one settlement check, which they intended to deposit in trust and use the proceeds to pay themselves and reimburse State Farm. To cash the check, both the Bolls and State Farm's signatures were required. A dispute initially arose as to whether the Bolls could subtract collection expenses from the amount owed to State Farm. State Farm initially refused to sign the settlement check because it felt that it did not owe the collection expenses. The Bolls filed suit.

The Bolls claimed State Farm: intentionally breached the insurance contract by refusing to sign the check; was legally obligated to pay its share of attorney fees incurred to collect from Safeco; and is required to pay additional punitive damages for improperly refusing to sign the check. The jury found in favor of State Farm. However, the district court was not required to

follow the jury's verdict as to the collection expenses. As such, the district court decided State Farm was obligated to pay its share of the collection expenses. The district court also ruled that the Bolls prevailed in the lawsuit and were thus entitled to recover costs from State Farm.

The Bolls asked the district court for a new trial and to overturn the jury. The district court denied the request. The Bolls and State Farm appeal to this Court.

This Court holds there is substantial and competent evidence to support the jury's verdict that State Farm did not breach the insurance contract. As such, the district court properly denied the Bolls' request to disregard the jury verdict and decide the case differently. The district court's jury instructions were not erroneous, but proper. The district court did not abuse its discretion by denying the Bolls' Motion for a New Trial. Furthermore, State Farm received both notice and an actual benefit from the collection efforts of the Bolls, thereby justifying the district court's award of attorney fees for collection expenses incurred by the Bolls in securing the settlement. The district court did not abuse its discretion by determining the Bolls were the prevailing party and awarding them costs as a matter of right. The district court did not abuse its discretion in denying the Bolls attorney fees at trial. Lastly, no award of attorney fees or costs is justified on appeal.